

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LAURENCE BARKER,

Plaintiff,

v.

Civ. No. 22-332 SCY/DLM

GR INVESTMENT GROUP LLC,
GUSTAV RENNY a/k/a
GUSTAV ZURAK and Jane Does 1-5,

Defendants.

ORDER GRANTING MOTION TO AMEND

This matter comes before the Court on Plaintiff's Motion To Amend Complaint And Add Parties. Doc. 57. No response was timely filed, and "The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion." D.N.M.LR-Civ. 7.1(b). The Court grants the motion.

A plaintiff may amend his complaint once as a matter of course, after which the plaintiff must seek consent from the opposing party or leave of the court. Fed. R. Civ. P. 15(a). "The court should freely give leave when justice so requires." *Id.* The motivation underlying this rule is to "provide litigants the maximum opportunity for each claim to be decided on its merits rather than on procedural niceties." *Minter v. Prime Equip. Co.*, 451 F.3d 1196, 1204 (10th Cir. 2006) (quotation omitted). However, a court may deny leave based on reasons such as undue delay, bad faith, undue prejudice to the opposing party, or futility. *Foman v. Davis*, 371 U.S. 178, 182 (1962). The district court's decision is discretionary. *See Cohen v. Longshore*, 621 F.3d 1311, 1314 (10th Cir. 2010) (court of appeals generally reviews "for abuse of discretion a district

court's denial of leave to amend a complaint"). Plaintiff filed the motion to amend within the deadline for amendments set in the scheduling order. Doc. 41 at 1.

Plaintiff states he wishes to amend to add Pelican Investment Holdings LLC and Vajira Samaratne as defendants. Doc. 57 at 1. Plaintiff argues that these entities, along with the currently named defendants, have used such business practices as registering fictitious names in furtherance of telemarketing schemes. Doc. 57 at 2. There being no apparent undue delay, bad faith, undue prejudice to the opposing party, or futility, the Court will grant the request.

THEREFORE, IT IS ORDERED THAT Plaintiff's Motion To Amend Complaint And Add Parties, Doc. 57, is GRANTED. Plaintiff shall file the amended complaint separately on the docket within 14 days of the date of this Order.



STEVEN C. YARBROUGH
UNITED STATES MAGISTRATE JUDGE